

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA

VS.

SUNIL WADHWANI

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Case No. M-19-1995-02

**DEFENDANT’S OPPOSED MOTION FOR PRETRIAL NOTICE OF 404(b)
EVIDENCE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant, SUNIL WADHWANI, by and through his undersigned counsel, and respectfully files Defendant’s Motion for Pretrial Notice of 404(b) Evidence, and for good cause would show the following:

SUMMARY OF MOTION

Defendant requests that the Court order the Government to give notice of and produce any evidence of other crimes, wrongs, or acts (404(b) Evidence) it intends to introduce during trial at least 14 days before trial.

ARGUMENT & AUTHORITIES

1. Evidence of a crime, wrong, or other act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character. Fed. R. Evid. 404(b)(1). However, the Government may seek to admit this evidence for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. Fed. R. Evid. 404(b)(2). A Defendant may request, and the Government must provide reasonable notice before trial of any such evidence

it intends to offer at trial. Fed. R. Evid. 404(b)(2)(A),(B). Sufficient pretrial notice will aid the Court in determining at the threshold, whether such evidence should be excluded because of its unfair prejudicial quality, a concern acknowledged in *U.S. v. Huddleston*, 485 U.S. 681, 108 S. Ct. 1496, 99 L.Ed.2d 771, 782 (1988).

2 Defendant requests that the Court order the Government to provide written notice at least 14 days before trial of any evidence of a crime, wrong, or whether it may seek to admit to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. At least 14 days-notice prior to trial would allow reasonable time for the Court to hear arguments of counsel and determine whether such evidence should be excluded because of its unfair prejudicial quality. *Id.*

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully prays that this motion be in all things GRANTED.

Date: October 29, 2019

Respectfully submitted,

By: /s/ Michael Wynne
Michael Wynne
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COUNSEL FOR SUNIL WADHWANI

CERTIFICATE OF CONFERENCE

I have conferred with AUSA Robert Lopez. Government is opposed to this motion.

By: /s/ Michael Wynne
Michael Wynne

CERTIFICATE OF SERVICE

This is to certify that on October 29, 2019, a true and correct copy of this motion was served on all parties of record via ECF.

By: /s/ Michael J. Wynne
Michael J. Wynne